

offer to the Government the cooperation necessary locally for the success of measures of general interest". These two purposes behind the creation of the Rural Council will be significant in bringing the government to the people and the people to the government. We cannot, therefore, but be emphatic in urging that, if such a body is not yet organized in your municipality, the matter be included in your program of administration.

SOTERO BALUYUT
Secretary of the Interior

TO all

Provincial Boards
Municipal Boards/City Councils
Municipal Councils

FEEES ON FOODSTUFFS

(Collection of import or export taxes or fees on foodstuffs and other goods and merchandise.)

Complaints have been received in this Department to the effect that many city and municipal treasurers are collecting taxes or fees on foodstuffs and other goods and merchandise carried into or out of the city or municipality, or merely passing through the same, presumably in pursuance of ordinances approved by the municipal boards or city or municipal councils providing for the collection of such taxes or fees.

In the case of the municipalities, such ordinances, if any, are null and void *ab initio* because of the express prohibition in section 2287 of the Revised Administrative Code. In the case of the chartered cities, such ordinances are *ultra vires* because there is no provision in their charters expressly or impliedly authorizing them to impose such kind of taxes or fees. Moreover, the imposition by the local governments of import or export taxes or fees on goods and commodities carried through, into, or out of their respective territories would obviously deter the free flow of commerce in the country and cause considerable increase in

the prices of commodities, to the prejudice of the consuming public.

In view of the foregoing, the city and municipal treasurers are hereby instructed to refrain from collecting municipal taxes and fees of the nature stated above, even if there is a municipal or city ordinance authorizing the same. In case there is any doubt as to whether or not a certain tax or fee comes within the purview of this circular, the matter should be brought immediately to the attention of this Department, and in the meantime, no collection of the tax or fee provided in the ordinance shall be made by the city or municipal treasurer. — *PROVINCIAL CIRCULAR (Unnumbered), dated April 17, 1947, of Secretary of Finance.*

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EFFECT OF RESIGNATION BEFORE RETIREMENT

Opinion is requested on whether or not Mr. Ceferino Diño may be granted the benefits under Act No. 2589, as amended, under the following facts and circumstances: On June 15, 1938, Mr. Diño resigned from the position of Provincial Treasurer and Assessor of Albay, after having previously established his right to retire under Act No. 2589, as amended. The records of the Bureau of Civil Service show that his resignation was due to various irregularities committed by him in office. After the liberation, Mr. Diño was reappointed as Acting Provincial Treasurer and Assessor of La Union, first, at P3,600 and, later, at P4,200 per annum. It further appears that on a date undisclosed in the within papers he presented a so-called "courtesy resignation" which was accepted by the President on October 19, 1946, effective on the date following his last day of service.

This Office has previously ruled that an officer or employee who resigns without being retired under Act No. 2589, as amended, thereby "forfeits his right to retire thereunder on the strength of his services prior to the resignation." (Op. Sec. of Justice, Sept. 23, 1946.) Upon reappointment, he is considered to have joined the govern-

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